

**Paul D. Sells, LCSW, LAC***Assessments, Evaluations, and Treatment of Youth, Families, and Adults*

125 Bank St., Ste. 301  
Missoula, MT 59802

Phone: (406) 549-7325  
Fax: (406) 549-7559

July 26, 2007

Montana Public Defender Commission  
44 West Park Street  
Butte, MT 59701

**RE: Public Comment on Estimated Cost Schedule for Mental Health Evaluations**

Dear Members of the Commission:

Per Dr. Laura Wenndlandt's encouragement during a phone conversation discussing the Estimated Cost Schedule, I wish to provide feedback regarding these provisional rates. As well, I have consulted at length with Patrick Davis, Ph.D., of Davis Consultants, P.C., in regards to the letter to the Commission dated July 20, 2007; I have also discussed these issues with Bill Patenaude, Ph.D., and Robert Shea, Ph.D., co-signers of the letter. I wish to clarify that as a Licensed Addiction Counselor, I (and I suspect other LACs) rely on assessment tools as an essential component, frequently, of chemical dependency evaluations, such as a Substance Abuse Subtle Screening Inventory (SASSI). As well, both as part of a full chemical dependency evaluation and as a component of an *initial screening* for possible psychological evaluation, a biopsychosocial and/or a mental status examination, and the gathering of pertinent collateral information, can be and frequently are useful components of a public defender's representation of a client. I believe strongly that such procedures can and should be performed by qualified LSCWs and LACs, as either part of an independent evaluation or, again, an initial screening procedure prior to psychological evaluation.

Additionally, while I greatly respect that the Public Defender's Office must adhere to budgetary constraints, I share the concern that the newly imposed, albeit provisional, fee schedule of \$75.00 an hour for services provided by LCSWs is below market value, and could greatly compromise the quality of care provided by Master's level clinicians. Providing clinical services within the criminal justice system to assist public defenders in the advocacy of their clientele is a component of my practice that I greatly value, and my relationship with the Public Defender's Office is one I wish strongly to maintain. It

is therefore my strongest hope that the Commission allow for flexibility and negotiation in hourly and flat fee rates.

Respectfully,

A handwritten signature in cursive script, appearing to read "Paul D. Sells".

Paul D. Sells, LCSW, LAC, MHP#351

Public comments respectfully offered to the Montana Public Defender Commission, July 27, 2007 by Timothy B. Conley, Ph.D. L.C.S.W. Certified Addiction Specialist.

I was recently consulted by Dr. Laura Wendlandt from the Montana Office of Public Defenders; we have discussed OPD's mental health policies relative to Licensed clinical Social Work (LCSW) practice in the past. I reviewed the document entitled: "Mental Health Expert: OPD Protocol Governing Referral and Examination" which was prepared, I understand, for the Montana Public Defender Commission. This was responded to in writing by a group of private psychologists (Davis Consultants, P.C.) and this response is on record with the Commission; this document is the object of concern for my public comment.

I believe the opinions offered in the Davis document mis-represent the scope of practice appropriate for LCSWs in Montana and it suggests disenfranchising the profession with regards to forensic work. Given the extensive historical and current involvement of social workers with the criminal justice system here in Montana this would have devastating effects on mentally impaired defendants and the just practice of law throughout the system.

Specifically, the commission is misinformed (by Davis) that "*The scope of practice of LCSWs in Montana does not include any form of psychological testing, evaluation, or assessment*" (original is in italics);

This is simply not true, as Licensed Clinical Social Workers regularly use a wide variety of psychometric tests, assessment and screening instruments (SASSI, BDI, MAST, AUDIT, CESD etc.) and are regularly reimbursed by all major insurers, Medicaid Medicare and other third party payors for such use.

In fact, in Great Falls, Benifice Health Care appears to be the only provider of "Cognistat" Neurobehavioral Cognitive Status Examination's for the courts and Sue Workman, LCSW informs me that there are only social workers and LCPC's doing this work.

Moreover, the commission is misinformed by Davis and his colleagues that "...including entries for LCSWs in the fee schedule rows for use of 'diagnostic tools' in the Screening section and entries for LCSWs... in the fee schedule rows for 'other assessments' in the CD Specific Evaluation section of the fee schedule is inappropriate and *inconsistent with the scope of practice of LCSWs...* as defined in Montana law" (italics added). As a professor of social work who teaches several graduate level practice courses at the University of Montana, I assure you this is not accurate. I teach their use in every practice and research course. There is no specific law that I could locate prohibiting the use of diagnostic tools and assessments by social workers. We are specifically empowered by statute to diagnose. It is longstanding, usual and customary practice for social workers to do so.

I suggest the Commission review, for example, MCA 53-21-102 concerning "Mental Health Professional's" qualifications for purposes of civil commitment, or MCA 46-18-111 concerning presentence investigation of sex offenders. 46-18-111 indicates that "the investigation must include a psychosexual evaluation of the defendant and a recommendation as to treatment ... completed by a sex offender therapist who is a member of the Montana Sex Offender Treatment Association or has comparable credentials acceptable to the department of labor and industry." Currently, only three of the thirty-seven clinical members of MSOTA are Ph.D/Psy.D level Psychologists, none of whom endorsed Davis statement. Should these LCSW's be disenfranchised?

These are just a few brief examples of how inextricably linked to forensic assessment LCSW's and LCPC's are in the state of Montana.

I encourage the Commission to retain all references to fees paid to LCSWs for diagnostic or other types of testing in the document "Mental Health Expert: OPD Protocol Governing Referral and Examination."